IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.34435 of 2008
ANIL KUMAR
Versus
STATE OF BIHAR
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2. **26.08.2008** Heard learned counsel for the petitioner and the State.

Petitioner is an accused in a case for the offences registered under Sections 467, 468, 471, 472, 409, 406, 420 and 120B/34 of the Indian Penal Code.

It is submitted on behalf of the petitioner that at the material time petitioner was Junior Engineer and engaged in work relating to the construction of the road in question. It is further submitted that petitioner has also been made accused alongwith the Executive Engineer in connection with the above construction of the road. It is further submitted that although during the inspection it was found that the width and length of the road was found to be in order. However, no seal coat was found over the constructed road and as such, the contractor was paid excess money. It is further submitted that during the spot inspection it was stated by the concerned Executive Engineer that on account of rainy season during the period of contract i.e. 18.04.2007 to 17.10.2007 although the seal coat over the road was done, but the same was eroded. It is further submitted that as per the special terms and conditions of the contract with the contractor the maintenance and repairing of the road in question for a period of five years was to be carried out by the contractor on his own cost, and as such, even if the seal coat was not found the same was required to be removed by the contractor as per the special terms of contract and as such the petitioner cannot said to have committed any criminal offence. It is further

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submitted that other co-accused i.e Executive Engineer, Assistant Engineer and the Contractor has been allowed anticipatory bail vide order dated 19.02.2008 passed in Cr. Misc. No. 3225 of 2008 and analogues cases.

Learned counsel for the State, on the other hand, submits that during inspection seal coat over the road was not found and as such the payments were made in excess.

Considering the submissions as made above, it is directed that in the event of arrest or surrender within a period of four weeks from today, the petitioners, namely, Anil Kumar be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Buxar in connection with Sikraul P.S. Case No. 15 of 2008 subject to the conditions as laid down under section 438(2) of the Code of Criminal Procedure.

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Jagdish/- **(Shailesh Kumar Sinha,J.)**